

REMARKS

The Official Action of September 28, 2005, and the prior art cited and relied upon therein have been carefully studied. The claims in the application are now claims 1 and 4-18, and these claims define patentable subject matter warranting their allowance. Favorable reconsideration and such allowance are respectfully urged.

Claims 2 and 3 have been canceled and new claims 10-18 added. Claims 1 and 4-18 remain in the application for consideration.

In response to the Examiner's rejection of claims 5 and 6 under 35 U.S.C. §112, second paragraph, Applicant has deleted "in particular on the container" from claim 5 and set out the deleted feature in new claim 10. Applicant respectfully submits that this rejection has now been overcome.

The Examiner has further rejected claims 1 and 4-8 under 35 U.S.C. §102(b) as being anticipated by Nakajima, claims 2 and 3 under 35 U.S.C. §103(a) as being unpatentable over Nakajima in view of Iaia, and claim 9 under 35 U.S.C. §103(a) as being unpatentable over Nakajima in view of Horstman. Applicant respectfully traverses all of these

rejections as applied to new claims 10-18 and amended independent claim 1.

New claim 1 now incorporates the features of original claims 2 and 3.

Iaia shows a dose control dispenser having an elevator 12 for elevating a chemical product. The elevator 12 has, as can be seen by comparison of Figs. 3 and 4, a polygonal cross-section providing a polygonal outer guide section cooperating with the inner surface of a container. As can be deduced from the bottom view of Fig. 5 of Iaia, the container has no smooth inner cross section but includes a plurality of axially running inner edges or rims, i.e. the corners of the polygon. Including Iaia's guiding scheme in Nakajima's device would result in a piston having a polygonal shape instead of an elliptic cross-section according to new claim 1. Such a polygonal shape is susceptible to jamming problems, i.e. tends to hamper of the movement of the piston. The elliptic shape according to new claim 1 of the invention eliminates such problems.

Iaia clearly does not teach or show a piston having an elliptic cross-section being guided in a complementary inner surface of a container. Accordingly, Applicant respectfully submits that independent claim 1 and claims

dependent therefrom clearly patentably define over the cited prior art.

The wall weakening 11f in a fixed cylinder 11 of Nakajima's liquid pressing mechanism serves a different function than the above mentioned wall weakening of the application device of new claim 11. Slits 11f help to insert a feed element 12 in the fixed cylinder 11 of Nakajima's device, as is explained in column 10, line 30 ff. of Nakajima. The operating mechanism of Nakajima's device includes turnable crown 11 cooperating with rotatable feed element 12 and rotatable screw rod 13. Fixed cylinder 11 having slits 11f is not part of this operating system. Nakajima does not teach incorporating a wall weakening in a part of the operating mechanism to provide a flexible interlocking element serving for flexible dislocation of the operating mechanism.

Absent such teaching, Applicant respectfully submits that independent claim 11 and claims dependent therefrom clearly patentably define over Nakajima.


The prior art documents made of record and not relied upon have been noted along with the implication that such documents are deemed by the PTO to be insufficiently pertinent to warrant their applications against any of applicant's claims.

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Favorable reconsideration and allowance are
earnestly solicited.

Respectfully submitted,

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